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June 23, 2010

Via Facsimile and ECFHonorable Arthur D. Spatt
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *TD Bank, N.A. v. JP Morgan Chase Bank, N.A. and Max Kahan, Inc.*
E.D.N.Y. Case No. 10-CV-2843 (ADS)(ARL)

Dear Judge Spatt:

We represent defendant Max Kahan, Inc. ("Kahan") in the above referenced action, which action was filed on Monday, June 21, 2010, and assigned to Your Honor. The instant action is related to an action before The Honorable John Gleeson of this Court entitled *United States of America v. All Funds on Deposit in TD Bank Account No. 7920060725, Held in the Name of Max Kahan, Inc., Up To, And Including Two Million Eighty-Nine Thousand Dollars (\$2,089,000.00) and All Proceeds Traceable Thereof*, Case No. 09-CV-4663 (the "Forfeiture Action").¹ For the reasons set forth below, we respectfully request that this action be transferred to Judge Gleeson.

The instant action is an interpleader action by TD Bank, N.A. ("TD Bank") against Kahan and JP Morgan Chase Bank, N.A. ("Chase"), with respect to funds deposited in Kahan's account at TD Bank in the amount of \$2,089,000, which funds were the subject of the Forfeiture Action. In the Forfeiture Action, Judge Gleeson issued a warrant for arrest of the funds and ordered TD Bank to turn over the funds to the U.S. Secret Service. The basis for the relief was that a claim had been made that the funds in Kahan's account were originally obtained fraudulently by third-parties from Chase.

After a criminal investigation by the U.S. Secret Service, Kahan was not charged with any wrongdoing or involvement with respect to the purported withdrawal of funds

¹ The civil cover sheet filed by plaintiff with its complaint also notes that the instant action is related to Case No. 09-CV-4663.

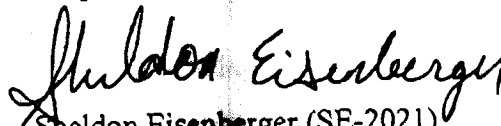
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from Chase, and there has been neither an allegation nor finding that Kahan acted in any way other than as an innocent owner with respect to the funds that it received in the account. As such, by Order dated April 28, 2010, Judge Gleeson dismissed the Forfeiture Action, with prejudice, and ordered that the funds previously turned over to the U.S. Secret Service be returned to the TD Bank account. We are advised that the funds have been returned, and TD Bank has filed the instant interpleader action with respect thereto.

The instant action presents an emergency situation. The \$2,089,000 seized from Kahan's TD Bank account was taken on or about October 28, 2009 -- almost 8 months ago. Kahan (which is in the business of selling gold) has managed to operate its business since that time; however, it is no longer able to do so. As a result, Kahan intends to move, by order to show cause, to dismiss the instant action and to have the funds immediately returned to it.

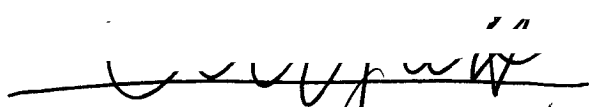
Judge Gleeson is thoroughly familiar with the underlying facts and circumstances surrounding the purported competing claims of Chase and Kahan to the funds. We submit that due to the urgency of this matter, and because the cases arise from the same transactions and events, a substantial savings of time and judicial resources is likely to result from transferring the instant action to Judge Gleeson.

Respectfully submitted,


Sheldon Eisenberger (SE-2021)

cc: (via facsimile)
Agelo A. Stio, III, Esq.
JP Morgan Chase Bank, N.A.

The Court agrees that this case - 10-CV-2843 - is related to
09-CV-4663, and should be reassigned to Judge Gleeson.
So Ordered.


Arthur D. Smith, U.S.D.J. 6/25/10

United States District Court
Eastern District of New York

**NOTICE OF
RELATED CASE**

The Civil Cover Sheet filed on **June 21, 2010** in civil action

CV 10-2843-ADS-ARL

1) indicated that this case is related to the following case(s):

CV 09-4663-JG

-OR-

2) was directly assigned to District Judge _____

and Magistrate Judge _____ as a Pro Se or Habeas case related to

Dated: **June 23, 2010 (mvr)**